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Report of the Secretary-General

Corrigendum

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Addendum

CONTENTS

Page

REPLIES RECEIVED FROM STATES

Austria 2

Chile 3

Iran (Islamic Republic of) 7

Mexico 9

Romania 13

AUSTRIA

[Original: English]

[12 September 1990]

1. International law constitutes the very foundation of our present-day international community and provides the basis for a peaceful resolution of conflicts among its members. Therefore, growing awareness by States regarding the fundamental importance of scrupulous respect for the rules and norms of international law as well as its progressive development and codification is essential for speeding up the long march of mankind towards the realization of a peaceful world. With this commitment in mind and being convinced that no other road to international peace and security is available to the community of nations, Austria whole-heartedly supported the declaration of a Decade of International Law and was pleased to be among the States that sponsored resolution 44/23.

2. The Decade of International Law provides for a unique opportunity to promote and enhance the cause of peace by strengthening the supremacy of the rule of law. In view of the fact that the promotion of the rule of law in international relations is one of the basic tasks of the United Nations, it seems only natural that the world Organization through the General Assembly should consider and adopt the various programmes and activities which would take place within the framework of the Decade from now on until the end of this millennium. Austria therefore welcomes the decision to consider this question in a working group of the Sixth Committee at the forty-fifth session of the General Assemly. We further believe that the Legal Committee of the General Assembly as the one organ most suited for this task should remain in control of and monitor closely all activities of the Decade for the entire period. It seems of utmost importance that all States should have the opportunity to participate in the decision-making related to the programme of the Decade. Austria further holds the view that all activities should be closely monitored as to their effectiveness and adjustments be made whenever the need arises. To this end Austria proposes that the working group of the Sixth Committee dealing with the Decade be made permanent for the entire duration of the Decade and that it should serve as a "Steering Committee" regarding all questions relating to the Decade with the task to develop generally acceptable recommendations for consideration and adoption by the General Assembly.

3. As to the programme of the Decade, Austria believes that particular attention should be devoted to the stock-taking of existing norms of international law and to the strengthening of the respect by all States for the rule of law. In this connection it seems important to place particular emphasis on the teaching, study, dissemination and wider appreciation of international law. Recent contributions by the United Nations towards solving regional conflicts have undoubtedly increased the interest of a more general public regarding questions of international law and the functioning of the Organization of the United Nations. Within the framework of the Decade further methods could be devised to build upon this growing awareness of the importance of international law, reaching out, in particular, to young people all over the world.

4. Closely concerned with the doctrine of the supremacy of the rule of law in international relations is the question of mechanisms for ensuring that States make use of peaceful methods for solving their disputes. The settlement of disputes between States in accordance with the Charter of the United Nations would seem to be the most suited subject for an in-depth study within the framework of the Decade of International Law. Austria is aware of the fact that this subject has been and is being treated in various other forums and contexts and that duplication of efforts undertaken elsewhere should be avoided. However, it would seem useful to undertake, within the Decade of International Law, a review of existing instruments in the light of the preparedness of States to actually make use of the mechanisms contained therein with a view to increasing the willingness of States to avail themselves of peaceful means to solve their differences. In this connection Austria believes that special attention should be devoted to the International Court of Justice and the strengthening of the readiness of States to accept the compulsory jurisdiction of the World Court. Austria further suggests that in the context of dealing with the subject of dispute settlement, special emphasis should be placed on those areas where differences between States are most likely to occur in the future. One of the areas that could be treated in this context would be the settlement of disputes relating to the environment, taking into consideration the work being undertaken in other forums, like for example by the United Nations Environment Programme in preparation of the 1992 Conference on Environment and Development.

5. As recent events have once again shown, there remain major problems in the search for acceptance of and respect for international law by all States. The Decade of International Law provides for a unique opportunity to further strengthen the rule of law in international relations and increase the willingness of States to abide by the norms of international law. In order to be successful, it is essential that the programme of the Decade is prepared and carried out with great care. Austria believes that this goal can only be attained if special attention is paid to reaching all decisions by consensus and if the programme ultimately adopted carries a realistic chance for success. For only those legal norms which have been elaborated with the consent of all segments of the international community are able to gain universal acceptance. Therefore, in the view of Austria subjects which do not command general support should not be introduced into the Decade.

CHILE

[Original: Spanish]

[13 September 1990]

1. Chile views respect for international law as one of the pillars of its foreign policy and recognizes the importance of any development and enhancement of this normative system and accordingly it welcomes this initiative.

2. Moreover, as a full member of the international community, Chile cannot remain aloof from or indifferent to the way in which the international community's legal system develops. It is apparent to all that the likelihood of international

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relations being conducted henceforth within a framework of peace and order is, to a great extent, linked to the way in which international law meets the increasing challenges and demands of ever greater interdependence and the increasing complexity of contemporary international life.

3. While the international legal system cannot bear full responsibility for peace as a system that regulates the conduct of the individual members of the international community, it does have a major responsibility in this matter.

4. Within this framework, Chile considers it important under the objectives of the Decade to draft an international convention on the peaceful settlement of disputes. Its provisions, based on the principle of the non-use of force, would not only focus on conflict prevention but would also establish obligations for States to resolve their differences peacefully.

5. While no legal instrument in and of itself can guarantee an absence of conflict, contemporary realities necessitate the promotion of coexistence and co-operation in all spheres, to which end the world community must be provided with explicit provisions aimed at specific and binding objectives.

6. Chile considers it essential to promote international law at every level. A major effort must be made to inform the greatest possible number of people at various stages of education of this normative system, drawing attention to its achievements, its limitations and its real potential.

7. This attempt to disseminate international law should be accompanied by steps to encourage academic activities, both internationally as well as in every State, through the various national public international law associations, in close co-operation with universities and other centres of higher education involved with the subject, not excluding under any circumstances participation by the respective ministries of foreign affairs. Such an approach could lead to in-depth consideration of the current content and future demands of international law. In this connection it is important to promote exchanges of jurists between various countries in order to enable them to communicate their personal and intellectual experiences at conferences or through series of lectures at a high academic level. Further, it is very important to contribute to the broadest possible dissemination of the works of the principal authors in the field of international law.

8. An attempt must be made to relate international law with the day-to-day existence of the common man. International law cannot be perceived as being exclusively for and among States. Today international law directly affects a great number of individuals in the most varied areas of their lives - health, human rights, the environment, etc.

9. In this way powerful currents of public opinion can be created, both internationally and within countries, and these can become a major source of pressure compelling States to act in accordance with international law. This topic must have a place in the ongoing political debate of States. Today international law is having an ever greater impact in areas which have traditionally been viewed as forming part of the exclusive preserve or responsibility of States.

10. Such a procedure would advance one of the important objectives of the Decade, namely, furtherance of the development of international law. In the view of the Government of Chile, such development is prompted far more by the changing realities which such objectives reflect rather than by any new theories or doctrines or armchair formulations, however knowledgeable about international law their proponents may be.

11. Account must be taken in this connection of the continued prevalance of a view of international law which is strongly centred on the State, a view which not infrequently hinders the development of the international legal system.

12. One approach which the Government of Chile feels should definitely be explored involves regional efforts to develop international law. Such development might perhaps be achieved through successive efforts to increase harmonization starting at the regional level, for the greater homogeneity of members of a region could facilitate progress on certain topics; those topics could later be discussed at the international level. In this connection the major role played by the inter-American system in the development of many areas of international law should not be overlooked.

13. Obviously, this course of action is not being proposed as an alternative to others of a more general scope, but as a useful way to explore and follow up on certain areas or topics.

14. Against this background, the Office of Legal Affairs of the Chilean Ministry of Foreign Affairs called the professors of international law at the country's universities to a meeting at which ideas were exchanged regarding the United Nations Decade of International Law. Representatives of the Chilean Society for International Law attended also.

15. After touching on the general background referred to above, the discussions came up with three major conclusions, namely:

1. Areas of priority interest

In accordance with the spirit of the United Nations Decade of International Law, the areas which should be proposed as areas of priority interest are those in which the development of international law calls for a new approach to the territorial jurisdiction of States, to international co-operation and to the resultant responsibility.

Protection of the environment and the various aspects thereof, production of and illicit trafficking in drugs, terrorism, migratory movements, refugees and the right to asylum, and enhancement of the mechanisms for the protection of the human person are of great immediacy in this context. In all of these areas, there is a need for new ways of resolving disputes, and international law is assuming new functions in the sphere of diplomacy. Similarly, various multilateral conventions, subregional agreements and understandings between Governments entail judicial action or proceedings of international legal assistance. It is important that academic contributions should be made with

respect to this topic, which covers what has traditionally been called international private law, in order to bring the applicable concepts up to date.

It also appears important to promote awareness of the contribution made by America to international law, by means of seminars and special events, and in other ways. This is all the more relevant in light of the fact that 1992 will mark the five hundredth anniversary of Iberian presence in America.

Finally, attention should be drawn to the problems relative to the adoption of minors, and to scientific and technological development in the field of genetics.

2. Special activities

At the national level, there are the annual symposiums organized by the Chilean Society for International Law. These might serve to encourage Chilean professors of international law to undertake studies on the topics referred to above.

Similarly, a seminar - perhaps along the lines of the Latin American symposiums organized by the Organization of American States in 1979 and 1980 - could be organized with the objective of preparing a publication on the application of the new areas of international law in Latin America (or in the Americas).

In addition, in 1992 the Hispano Luso-American Institute of International Law (IHLADI) will meet in Salamanca, Spain. Chile is considering offering to host the following IHLADI Congress, and to this end it will propose topics related to the United Nations Decade for International Law for consideration at the meeting.

3. Projects

(a) The proposal to set up international law documentation centres in the Latin American countries was considered highly useful. Before going ahead with this initiative it will be necessary to give further thoughts to: the type of institution in which the proposed programme - whether computerized or manual - should be based; the degree of specialization required by the staff and the users for which it is intended. Chile does have some infrastructure in specialized documentation centres, but the universities do not benefit fully from them owing to insufficient training and inadequate operating conditions.

There could be a link between such a project and the modernization of the techniques of legal research in Chile and Latin America, which is indispensable to academic work as such, as well as to legislative and judicial work.

(b) Efforts should be made to further the publication, at Latin American level, of a Manual on International Law, which would cover, in addition to the topics specific to this branch of law, this continent's doctrine and practice in the area.

IRAN (ISLAMIC REPUBLIC OF)

[Original: English]

[6 September 1990]

1. The Islamic Republic of Iran is of the opinion that consideration of the legal values of all nations and reliable legal schools of thought, in codifying of international law and its progressive development, could promote acceptance of and respect for the principles of international law. Adoption of an impartial attitude towards legal values of all major legal systems will enrich the contemporary international law; it would also persuade all States and nations to abide by their obligations under these norms.

2. In light of the fact that States in general and big Powers in particular accord priority to their national interests, exploration of ideas and appropriate measures for keeping political expediencies away from the process of implementation of the provisions of the international law is absolutely necessary. For instance, the principle of refraining from threat or use of force in international relations against territorial integrity and political independence of other States is the most important principle for maintenance of international peace and security, non-observance of which has been the source of many international crises and conflicts in the twentieth century. Being aware of this fact and in order to ensure prompt and effective action, the founders of the United Nations have granted the primary responsibility for preserving international peace and security to the Security Council in Chapters VI and VII of the Charter. A glimpse at history of international crises and conflicts following the establishment of the United Nations suggests that the Security Council has been more responsive to consideration than to implementation of pre-emptory norms of international law. It has failed to act decisively and promptly in dealing with various cases of breaches of peace and acts of aggression; thus legal norms governing relations among nations are undermined and enforcement power further diminished. Under such circumstances, the violators continue their lawless acts with impunity. Therefore, the Islamic Republic of Iran is of the view that taking timely action against aggression is an integral part of responsibilities of the Security Council.

3. Concerning peaceful settlement of international disputes, the Islamic Republic of Iran is of the opinion that the States parties to a dispute should negotiate in good faith till achieving conclusive results. It is equally important that bilateral, regional and other international arrangements, including ways and means enshrined in the Charter of the United Nations be considered by the parties. Parties concerned should respond positively towards good faith efforts being made to resolve the dispute.

4. Furthermore, in order to prevent the eruption of crises in international relations, the United Nations Security Council should investigate all situations that may endanger international peace and security, encourage parties concerned to negotiate in good faith, remind them of their obligations under international law and the Charter of the United Nations, and recommend necessary solutions for defusing tension and abatement of the crisis.

5. It is also essential for the Secretary-General to respond expeditiously in cases referred to him by any of the parties to a dispute, to employ all his capabilities for its pacific settlement, to actively utilize his powers under Article 99 of the Charter, and to draw the attention of the Security Council to situations that may threaten international peace and security.

6. To enhance respect for the International Court of Justice, States should be encouraged to refer their legal disputes that are not resolved through negotiation or other means of pacific settlement to the International Court of Justice. Resorting to the International Court of Justice must be facilitated and appealing to States. In order to achieve this goal, the following suggestions are to be studied: rules of procedure ought to be simplified for expeditious adjudication, ways and means of reducing expenditure should be studied, and assistance should be provided for those that are facing financial difficulties in referring their disputes to the Court.

7. As far as the codification and progressive development of international law is concerned, the Islamic Republic of Iran holds the view that various aspects of international law require further study, analysis and evolution. For instance norms of the Law of the Armed Conflict need special attention. Various norms of the law of armed conflict codified in 1899 and 1907 Hague conferences were appropriate measures in responding to the requirements of that age. Tremendous technological progress, emergence of chemical, nuclear and other types of weapons of mass destruction, experiences of the two world wars as well as other regional conflicts demand a fresh attempt on the part of the international community for developing new rules of the armed conflict consistent with existing circumstances. The examples given below are among the subjects that require further analysis and study: law of naval warfare, war exclusion zones, aerial and missile attack to cities and residential areas, redefining the concept of neutrality, use of various types of weapons of mass destruction, including chemical weapons, ways and means of dealing with user of such weapons, rights of civilian residents of territories under foreign occupation and duties of the occupier.

8. Apart from the law of armed conflict, issues relating to international economic relations require further attention and scrutiny. During the decade of international law, greater importance should be attached to the principle of permanent sovereignty over natural wealth resources, and all economic activities. It is also equally important that in developing its various aspects, practices of States and international organizations, orders of international tribunals, teachings of the most highly qualified publicists, and particularly interests of the developing countries should be taken into account.

9. Regarding the study, teaching, dissemination, and wider appreciation of international law, while stressing on the advancement and continuation of the existing programmes, the Islamic Republic of Iran holds the view that special attention should be paid to the training courses of international law in the universities and institutions of third world countries; their respective authorities should be assisted in holding educational courses in the field of international law. It is further desired that United Nations University expand its activities in third world countries. It would also be useful if the concerned organs of the United Nations when employing the services of professors and researchers for preparation of legal reports and implementation of research projects could strictly observe the principle of equitable geographical distribution so as to allow for services and contribution of advisors and researchers of all countries especially representatives from major legal systems.

MEXICO

[Original: Spanish]

[13 September 1990]

1. The Government of Mexico expressed its firm support for the Decade from the outset and, having worked actively for the adoption at the forty-fourth session of the General Assembly of resolution 44/23 establishing the Decade, is also committed to making an enthusiastic and constructive contribution throughout the Decade.

2. Accordingly, the Government of Mexico is able to endorse the many positive comments and ideas put forward by various countries for incorporation in the programme of action for the Decade, especially those refering to:

(a) The negotiation and adoption, at a diplomatic conference, of a general convention on means for the peaceful settlement of disputes which would include specific procedures for preventing such disputes from arising;

(b) The promotion of wider accession by States to the multilateral treaties concluded under United Nations auspices, with a view to making them universal as soon as possible;

(c) The mounting of a campaign to ensure that the largest possible number of States Members of the United Nations make the optional declaration recognizing the compulsory jurisdiction of the International Court of Justice;

(d) The encouragement of a greater number of requests for advisory opinions from the International Court of Justice;

(e) The promotion of contributions to the Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, the establishment of which has been proposed by the Secretary-General;

(f) The translation of the judgments and advisory opinions of the International Court of Justice into all the official languages of the United Nations, which Mexico has been suggesting for the past six years;

(g) The encouragement of the study, teaching, dissemination and wider appreciation of international law, especially through a fellowship programme for teachers of international law in developing countries;

(h) The holding of regional seminars to:

(i) Analyse why international law was not effective and forceful enough to prevent the major armed conflicts which have occurred in this century;

(ii) Draw up recommendations as to the changes which must be made in contemporary international law so that in the century to come it will be an effective instrument for the prevention of war and the maintenance of international peace and security;

(i) The drafting by the United Nations in its six official languages of a handbook of international law;

(j) The review, in 1995, of the programme of action for the Decade;

(k) The holding of a third international peace conference in 1999, the agenda for which would be drawn up after the 1995 meeting to review the programme of action.

3. In addition, the Government of Mexico believes that, as part of the programme of action for the Decade and subject to the overall criteria of realistic goals, broad acceptance, non-duplication of existing efforts and the search for consistency in the Organization's work in the legal field, the following new items should be included with a view to a more progressive development of international law:

(a) A new general and comprehensive convention on means for both the prevention and the peaceful settlement of disputes should also include specific, well-designed procedures for freezing a dispute at its earliest stages to avoid its gradual escalation. Moreover, after such freeze or moratorium, the parties to the dispute should remain under the strictest obligation to keep in operation at all times at least one of the means of peaceful settlement provided for in the convention, and should inform the depositary of that convention, ideally the Secretary-General, accordingly in a timely manner. In the mean time, a third party, who would be chosen from a pre-established list and would, where possible, act as a kind of joint trustee for the parties, could be entrusted with overseeing the interests involved in the dispute until it was settled and even with recommending the requisite interim or preventive measures;

(b) One factor that is becoming commonplace in so far as its potential for undermining the rule of law in international relations concerned, is the adoption of unilateral coercive measures by certain States in order to make another State or

group of States change their position or to gain an advantage over them. In general, such measures have an economic and punitive component and are designed to make the other State or States change their domestic or even their international policies.

In so doing, the State adopting such measures claims, also unilaterally, a right to punish others which no norm of international law has given it. This gives rise to disputes, generally between countries which carry very different weight on the international scene.

Such measures, which are in fact prohibited by regional multilateral instruments, for instance, by article 19 of the Charter of the Organization of American States, run counter to such fundamental international legal principles as respect for the sovereignty of States, legal equality of States, non-intervention and, especially, the right of peoples to self-determination.

This in turn disrupts harmonious relations among members of the international community and may, on occasion, even threaten international peace and security. Nothing is more contrary to the spirit of multilateralism, collective action and co-operation embodied in the Charter of the United Nations than measures of this nature. Recourse to them is increasing alarmingly, especially when no effective action is taken to stop them. During the Decade, this phenomenon will have to be addressed in order to control and prevent it, perhaps by the adoption, through the Sixth Committee of the General Assembly, of an appropriate multilateral instrument;

(c) Any legal order must seek to shape, through its norms, the mechanisms which the reality and needs of the society to which it applies require. Thus, if an inventory were made of the real demands of contemporary international society, we would surely come up with a list of issues on which international law has not evolved, while costly and prolonged efforts have been made to codify or progressively develop norms dealing with topics which clearly warrant less urgent priority.

In their comments on the programme for the Decade, a number of delegations referred to important issues which require appropriate regulation under international law. Mexico supports action on these issues, which include the need to codify and progressively develop principles of and primary rights and obligations under international environmental law, which given its tremendous priority is perhaps one of the most pressing issues on our agenda.

However, there are also a number of topics which, although urgent and extremely important because of their effect or impact on the international community, have not yet been suggested in the context of the Decade. Nor are they on the agenda of other ongoing international legislative efforts.

Among these topics, and clearly far more important than the adoption of more detailed legal rules governing the diplomatic bag, we might suggest the following, which would transform international law into a vehicle for achieving a better world:

(i) Efforts to combat international illicit arms trafficking, which almost invariably puts into the wrong hands the lethal tools needed to threaten

both the internal peace of States and international peace and security, thereby sustaining the various forms of terrorism, interventionism and hegemonism;

(ii) Affirmation of the right to food as a human right, since this is still missing from the lists of basic instruments for the international protection of human rights. Although the right to food is one of humankind's most elementary rights and contrasts with a world of intolerable waste, the absence of given minimum guarantees for it is resulting in increasingly widespread malnutrition in various parts of the world and in the deaths of millions of people each year - as many as would be killed in a major war;

(iii) Efforts to combat the disturbing and widespread practice of justifying violence, a practice which takes every possible form and is becoming increasingly prevalent, particularly in the mass media, thereby corrupting the minds of children and young people. All this is the outcome of a dangerous abuse of freedom of expression which sows the seeds of intolerance and aggressiveness in human relations, creating a social environment which is soon reflected on the international scene. In this issue the international community faces a tremendous challenge which it must curb through an appropriate legal instrument;

(iv) Action to combat illicit traffic in and the international exploitation of minors, a phenomenon which is increasingly affecting the international community in a variety of ways. Such action is now obligatory as a logical consequence of the follow-up to the entry into force of the United Nations Convention on the Rights of the Child.

4. Mexico also believes that the mechanisms available to the United Nations for it to accomplish fully and appropriately its task, set forth in the Charter, of promoting the codification and progressive development of international law need to be immediately reoriented and adapted more fully to that task. Accordingly, Mexico has proposed that:

(a) The Sixth Committee should return to its role of legal adviser to the other Committees of the General Assembly, especially in view of resolution 684 (VII) of 6 November 1952 which forms part of its rules of procedure, instead of concentrating unduly, as it has done until now, on the work of the International Law Commission which represents only a small fraction of the work being done world wide in this area;

(b) The Sixth Committee should evaluate and monitor the international legislative work being done in the United Nations and in other forums of the United Nations system where international instruments are being negotiated, with a view to taking under its responsibility:

(i) The planning of such work; and

(ii) The identification of priority topics which require progressive development or codification;

(c) With a view to accomplishing the above, the General Assembly should request the Secretary-General to draw up and maintain a list of international legal topics under consideration in the organs and organizations of the United Nations system;

(d) On the basis of that list, the Secretary-General should draw up an annual report on the international legal work of the Organization;

(e) The Sixth Committee would consider such a report annually, with a view to taking whatever action it deemed appropriate in exercise of both its role as legal adviser and its evaluation and monitoring functions referred to above;

(f) The work of the Sixth Committee and the International Law Commission should be the result of the implementation of the approach proposed here;

(g) The Sixth Committee should also, throughout the Decade, remain a source of initiatives for activities to be included in the programme of action, in addition to monitoring the programme's implementation.

5. Lastly, the Permanent Mission of Mexico, recalling Economic and Social Council resolution 1988/63 of 27 July 1988 entitled "Guidelines for international decades", suggests that the General Assembly should call upon Member States to encourage the establishment of national committees for the United Nations Decade of International Law which would participate and co-operate fully in the activities envisaged in the programme of action.

ROMANIA

[Original: French]

[14 September 1990]

1. Following the revolution of December 1989 in Romania, the country's leaders have asserted, in numerous declarations and other official documents, Romania's total commitment to the principles and norms of international law. Romania's foreign policy has undergone a radical change. The artificial barriers which the former régime had put in the way of international co-operation have been removed, traditional contacts have been renewed and reassessed, and decisive action has been taken to open Romania up to the major trends in the world. Against this background, Romania has once again affirmed its right and its resolve to participate as an equal partner in the building of Europe. As a European country speaking a Romance language, Romania reaffirms its total commitment to the values of European civilization and to the general efforts to build a viable system of security and co-operation in Europe.

2. Romania takes the view that international law, the principles and norms of which have been fully reflected in the documents of the Conference on Security and Co-operation in Europe (CSCE) has a major role to play in co-ordinating joint actions aimed at building a peaceful future for Europe and the other continents.

3. It is thus natural for Romania to support the United Nations Decade of International Law and to state its firm commitment to its first objective, namely, to promote acceptance of and respect for international law. Romania is convinced that the achievement of this objective will contribute to the creation and maintenance of a universal peace based on justice and liberty, and to the development of relationships of co-operation, friendship and good-neighbourliness between States, in conformity with the Charter of the United Nations. Accordingly, Romania feels that the programme for the Decade should include legal and practical procedures to reinforce the part played by the principles and norms of international law in laying down rules for the conduct of all members of the world community.

4. As Romania sees it, guaranteeing the rule of international law is an essential pre-condition to the promotion of peace, security, social and economic justice, fundamental human rights and freedoms, and the ecological equilibrium of this planet.

5. With resgard to the second main objective of the Decade, namely, to promote means and methods for the peaceful settlement of disputes between States, Romania welcomes the initiative to draft a universal legal instrument on the peaceful settlement of disputes, as described in the Hague Declaration of the Meeting of the Ministers of Foreign Affairs of the Movement of Non-Aligned Countries, adopted on 29 June 1989. Romania feels that the success of this initiative, through the United Nations, will make a useful contribution to consolidating the principle and practice of peaceful settlement, laying down guidelines for the behaviour of all States.

6. As the country which originally requested the inclusion of the item "Peaceful settlement of disputes between States", in the agenda of the Assembly, an item which is also on the agenda of the forty-fifth session, Romania wishes to stress the relevance of the provisions of resolution 44/31 of 4 December 1989 on this topic. This resolution stresses the need to continue efforts to strengthen the process of the peaceful settlement of disputes through progressive development and codification of international law and through enhancing the effectiveness of the United Nations in this field.

7. Romania considers that a favourable context for the development of these efforts could be the United Nations Decade of International Law, the programme for which will include as a basic element the peaceful settlement of disputes between States. Accordingly, it would be possible to promote the item "Peaceful settlement of disputes between States" most effectively within the context of the Decade, thus obviating the need to keep it as a separate item on the agenda of the General Assembly. In consequence, Romania suggests that starting in 1991 the item "Peaceful settlement of disputes between States" should be examined under the item on the United Nations Decade of International Law.

8. With regard to the third purpose of the Decade, namely, to encourage the progressive development of international law and its codification, Romania hopes that the programme for the Decade will help to expedite the preparation of new international legal instruments, and, in particular, the finalization of the drafts

now before the International Law Commission and the United Nations Commission on International Trade Law.

9. Inasmuch as the United Nations Decade of International Law covers the same period as the International Decade for Natural Disasters Reduction (proclaimed in General Assembly resolution 44/236, which was adopted by consensus on 22 December 1989), there is a need for further efforts, both within the United Nations Secretariat and within all the other competent organs of the United Nations, to ensure an optimum level of co-ordination and harmonization in areas where the objectives of the two Decades coincide or are similar. It would therefore be useful, in the context of the two Decades, to pool efforts to develop international humanitarian law, as an ever more important branch of general international law.

10. On the basis of paragraph 4 of General Assembly resolution 44/236, in which the Secretary-General of the United Nations was requested to submit to the Assembly at its forty-fifth session a report on the status of existing protocols and conventions for mutual assistance in cases of disaster, the working group that will be preparing the programme for the United Nations Decade of International Law should formulate recommendations on ways and means of stimulating the development of international humanitarian law applicable in this area, including the development of relevant new legal instruments of a universal character.

11. In broader terms, the programme for the United Nations Decade of International Law should contain recommendations on how to expedite the ratification process for multilateral legal instruments adopted under the auspices of the United Nations in the area of public and private international law, with special emphasis on legal instruments relating to social and humanitarian issues, and fundamental human rights and freedoms. In this connection, Romania considers that the United Nations Decade of International Law should also be used to bring to fruition the process of universal acceptance of the International Covenants on Human Rights and other United Nations conventions dealing with fundamental human rights and freedoms, and to begin drafting new legal instruments like the text relating to the elimination of all forms of religious intolerance, in accordance with General Assembly resolution 44/131 of 15 December 1989.

12. The fourth purpose of the Decade, namely to encourage the teaching, study, dissemination and wider appreciation of international law, is of particular contemporary relevance among the measures to foster universal respect for the principles and norms of international law, and to consolidate the role of international law in promoting and maintaining world peace and security. Accordingly, the programme for the Decade should contain specific recommendations in this regard, and such recommendations should also draw on the experience of certain governmental and non-governmental organizations such as UNESCO, the Asian-African Legal Consultative Committee, the Institute of International Law, the International Law Association and the Hague Academy of International Law.

13. Romania also takes the view that, during the Decade, efforts should be made to enhance the effectiveness of the work of the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider

Appreciation of International Law. In this connection, measures to ensure full implementation of General Assembly resolution 44/28 of 4 December 1989 are called for.

14. Romania supports the proposal to convene an international peace conference at the end of the United Nations Decade of International Law, with a view to adopting legal instruments of a universal character to govern inter-State relations throughout the coming century.

15. Romania believes that the Decade of International Law, proclaimed and prepared under the auspices of the United Nations, will lead to a strengthening and diversification of the activities of the world Organization in the legal sphere, and will help it to fulfil its supreme mission: to save present and succeeding generations from the scourge of war.

16. Romania looks forward to taking an active part in the preparation and implementation of the programme for the Decade, and remains firmly convinced that the success of this universal endeavour will have a profoundly positive effect on the promotion of the rule of law in international affairs.

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Report of the Secretary-General

Addendum

CONTENTS

ANNEXES

Page

I. REPLIES RECEIVED FROM STATES

China 2

Mongolia 8

Nicaragua 11

United States of America 13

II. REPLIES RECEIVED FROM INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS AND NON-GOVERNMENTAL ORGANIZATIONS

International Institute of Humanitarian Law 18

ANNEX I

REPLIES RECEIVED FROM STATES

CHINA

[Original: Chinese/English]

[27 September 1990]

1. Declaration on the principles of international law concerning peace and development

1. In the present century, "the scourge of war ... twice in our lifetime has brought untold sorrow to mankind". However, profound changes have taken place in international relations since the Second World War. The most salient feature of the changes is manifested in the vigorous unfolding of the national independence movements and the emergence of the vast numbers of third world countries. Modern international law, too, has undergone positive changes. Meanwhile, scientific-technological progress and the increase of international economic exchanges and co-operation have provided favourable conditions for the development of the world economy. A realistic vista for peace and development is emerging. However, as many destabilizing and negative factors still exist in international political and economic relations, it is still an important task of the international community to strengthen the international legal system. Therefore, on the eve of the twenty-first century, it is of great importance for the United Nations to launch a Decade of International Law, formulate and adopt a declaration of principles of international law concerning peace and development and reaffirm the basic principles of international law, thereby putting international relations on a solid legal basis.

2. The five principles of peaceful coexistence co-initiated by China, Burma and India are the primary and fundamental principles of modern international law. The vital importance of the principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression and non-interference in each other's internal affairs is self-evident and has been repeatedly reaffirmed by the Charter of the United Nations and a series of major international legal instruments. The principle of equality and mutual benefit combines equality with mutual benefit. It is designed not only to focus on legal equality, but require de facto equality as well, with the emphasis on mutual respect and mutual benefit among States, large or small, rich or poor, thus reflecting a new type of State-to-State relationship based on the equality and mutal benefit characteristic of contemporary times. The principle of peaceful coexistence, formulated and put into practice against the backdrop of a diversified pattern of international relations, evolved after the Second World War and has become an important principle for peaceful coexistence among over one hundred diverse States in the present-day world. The principle of peaceful coexistence and the other aforementioned principles, forming an integral whole, have become a fairly comprehensive set of norms governing conducts of States.

3. The five principles of peaceful coexistence, which came into being and developed with the birth and development of the newly independent countries, reflect their desire for and close attention to the establishment of a new type of international political and economic relations. In the process of their development, the five principles of peaceful coexistence have become the general norms governing intercourse and friendly co-operation among States, despite their differences in social system, level of economic development and historical and cultural traditions. The Chinese Government stands for the establishment of a new international political and economic order on the basis of the five principles of peaceful coexistence.

4. As fundamental principles of international law and basic norms governing international relations, the five principles of peaceful coexistence should become important components of the declaration on the principles of international law concerning peace and development, continuing to play their positive role in the twenty-first century.

5. The five principles of peaceful coexistence and the Charter of the United Nations and the other fundamental principles of international law are mutually complementary, mutually compatible and consistent with one another. For example, resolution 1236 (XII) of 14 December 1957, entitled "Peaceful and neighbourly relations among States", adopted at the twelfth session of the General Assembly, embodies the basic concepts and provisions of the five principles of peaceful coexistence. Also related to some extent to the five principles is the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations adopted without a vote by the General Assembly on 24 October 1970 (resolution 2625 (XXV)). Some scholars, when commenting on the elaboration of the Declaration, said that "the 'new' countries have begun now to try to put flesh on the bare bones of the five primary principles of peaceful coexistence as postulated in the original Pan-cha Shila declaration (Joint Statement of the Premiers of China and India on the Five Principles of Peaceful Coexistence)". In addition, the provisions of the five principles of peaceful coexistence have also been written into such international instruments as the Charter of Economic Rights and Duties of States. Therefore, the five principles of peaceful coexistence together with other fundamental principles of international law should be incorporated into an international legal instrument reflecting the progress and development of modern international law.

2. Developing countries and international legislation on environment

6. Since the 1972 United Nations Conference on the Human Environment, the international community has made sustained efforts for the protection and enhancement of the human environment. The adoption and drafting of a series of international legislative instruments on environment are proof of such efforts. In view of the fact that international legislative activities constitute one of the main forms of efforts made by the international community to protect and enhance the environment, the Government of China has always supported and actively participated in these activities and will continue to do so, with a view to playing a constructive role in this regard.

7. The nature of environmental problems demands that each and every nation of the international community to participate actively and with a sense of responsibility in global programmes and action for the protection and enhancement of the human environment. For many reasons, the ability to participate in these programmes and action varies from one country to another. As far as developing countries are concerned, most environmental problems stem from underdevelopment. Although their ability to participate in global programmes and action is limited, without their participation many major global environmental problems can definitely find no solution.

8. We stand for the inclusion of the item "Developing countries and international legislation on environment" under the "Decade of International Law" because studies in this aspect will not only help promote and ensure a more active and fruitful participation by developing countries in international legislative activities for the environment, but also enhance and strengthen the mutual understanding and co-operation between developing and developed countries as well as reinforce global action to protect and enhance the human environment. At the Second Conference of the Contracting Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer concluded in June 1990, agreements were reached on an amendment to the Protocol concerning the establishment of the fund for aiding developing countries, and the mechanism for transferring relevant technologies to developing countries in the light of the proposals of developing countries. This mechanism provides encouraging experience for developing and developed countries in making concerted efforts to address environmental problems.

9. The practices of developing countries participating in international legislation on environment draw our attention to, inter alia, the following basic principles:

(a) Environmental protection represents the common interests of human society. Protection of the global environment represents the common interests of mankind. All countries, developing and developed, should work together to protect and enhance the environment. This principle requires the participation of all countries, including developing countries, in international environmental affairs.

(b) The principle of national sovereignty. International environmental protection presupposes respect for countries' sovereignty and their right to exploit their own natural resources and to formulate their economic and environmental policies in the light of their own national conditions. It should not serve as an excuse for interfering in other's internal affairs. The principle of sovereignty in international legislation on the environment also entails respect for the sovereignty of other countries and for the common interests of the international community. It has been repeatedly reiterated in some international instruments that countries have the right to exploit their natural resources pursuant to their own environmental policies and the obligation to guarantee that the activities under their jurisdiction or control do not damage the environment of other countries or the environment beyond their jurisdiction.

(c) The developed countries should assume the main responsibility for environmental protection. The General Assembly, in its resolution 44/207 of

22 December 1989, noted that "the largest part of the current emission of pollutants into the environment originates in developed countries, and [recognized] therefore that those countries have the main responsibility for combating such pollution". Resolution 44/228 also of 22 December 1989 reaffirmed this point. Meanwhile, the historic responsibility of the developed countries cannot be ignored either.

(d) Environmental protection should be kept in step with development. A series of important international instruments have stated in explicit terms that most of the environmental problems in developing countries stem from underdevelopment. One of the important conditions for the solution of the environmental problem is to develop the economy and eliminate poverty so as to ensure a sustained and steady development. Environment and development are an inseparable whole. International legislation on the environment should take into account the development level of developing countries and their special needs for development, and global environmental protection must not be allowed at the cost of the development of developing countries.

(e) The principle of equity in international co-operation. Such co-operation is fair because it calls on developed countries to provide funds for environmental protection and to transfer applicable technologies to the developing countries through multilateral and bilateral arrangements, in the light of the different responsibilities, abilities and needs of various countries in international environmental protection. This was also spelt out clearly in Principle 12 of the Declaration of the United Nations Conference on the Human Environment of 1972 and a series of resolutions adopted in recent years by the General Assembly concerning environmental problems. International legislative instruments on the environment should contain such provisions as developed countries providing additional funds to developing countries and the joint management by the former and the latter of the funds under democratic principles, as well as developed countries transferring safe and harmless technologies to developing countries on preferential and non-commercial terms. These are the sine qua non for developing countries to fulfil their obligations under the international legislative instruments on the environment. Given these conditions, developing countries will be ready to participate actively in international co-operation and make their own contributions to international environmental protection.

3. The third world and international law

10. The emergence of many newly independent third world countries is a significant feature in the annals of modern international relations. Third world countries used to have no access to international law and were victimized by certain discriminatory legal norms. When the third world nations began to involve themselves in international affairs as sovereign States after their independence, what attitude they would take towards international law attracted universal attention. Practice in modern international relations and international law has shown that, while rejecting some outmoded norms in international law, the third world countries positively affirm and highly value it, and have instilled into it a fresh vitality. The third world countries' attitude towards international law is encouraging.

11. The involvement of the third world countries in international law has broadened the area where it functions. When international law was regarded as a product of Christian civilization in Europe, it functioned at most among several dozen European and American States. The involvement of the third world countries has brought about a fundamental change in this situation. It can be said that in our times no single important world "legislative" conference has been held without the participation and contribution of those countries. The extensive legal practice of those countries has contributed significantly to the coming into being of international customary law and of the case law of the International Court of Justice and national courts concerning international law. Works and ideas by scholars of international law from the third world countries have exerted an important influence on the development and codification of international law. It is the active participation and efforts of these countries that have enabled international law to acquire a truly world-wide universality with the geographical scope of its functions expanding in an unprecedented manner.

12. The involvement of the third world countries has helped promote progressive development of international law. Owing to their historical experience, the third world countries strongly aspire towards a new type of international relations based on genuine sovereign equality. A series of important principles in international law that conform to this aspiration were either initiated or endowed with new meaning by the third world countries. These include, inter alia, the principles of self-determination, State sovereignty, non-use of force, non-interference in the internal affairs of other countries, equality and mutual benefit, settling international disputes by peaceful means and peaceful coexistence. The third world countries have advanced some new concepts in international law, such as the permanent sovereignty of a State over its natural resources and the common heritage of mankind. Furthermore, the third world countries have also contributed their share to the progressive development of the traditional international law of recognition, succession, state responsibility, treaties and war, and international criminal law. Indeed, the active involvement of the third world countries has made it possible for international law to better meet the needs of the development of modern international relations.

13. The involvement of the third world countries has improved the applicability of international law. The third world comprises the developing countries, many of which are underdeveloped. Therefore, only when the special needs of the third world countries are taken into account in formulating, interpreting and applying international law, can the practical applicability of international law be ensured. For example, the principle of equality and mutual benefit in international economic law demands a guarantee for de facto equality by combining equality with mutual benefit; the principle of equity in international environmental law requires that some different rights and obligations be prescribed for the developed and the developing countries, so as to ensure universal implementation of the international environmental law in a truly effective way. And in this regard, the growing common understanding on the part of the international community is essential to promoting the universal observation of international law.

14. The third world countries are a positive, dynamic and important force in the field of modern international law. The development of modern international law cannot be separated from the involvement of the third world countries. Therefore, an in-depth study and scientific knowledge of the role, status and influence of the third world countries vis-à-vis modern international law will help improve our understanding of the interaction between these and other countries in the realm of international law, thus enhancing our overall understanding of international law. This will in turn contribute to a greater role of international law in contemporary international relations.

4. Strengthening the role of the International Court of Justice

15. At present, States are attaching increasing importance to the peaceful settlement of international disputes and the United Nations is playing an increasingly greater part in finding peaceful solutions to international disputes and conflicts.

16. At the same time, the International Court of Justice, as the principal judicial organ of the United Nations for the peaceful settlement of international disputes by means of judicial procedure, has been given greater attention by the international community. By the end of 1989, the Court had received a total of 82 cases over the past 43 years, yet 8 cases were dealt with by the Court in 1989 alone. The enhanced role of the International Court of Justice in the peaceful settlement of international disputes is due to improvements in its composition and its application of laws and procedural rules, besides changes in the international situation.

17. The international community, however, places still higher hopes on the International Court of Justice: efforts to strengthen its role should continue and practical steps to that end should be encouraged. We are ready to work together with the countries interested in this question in its joint exploration or to take some commonly acceptable practical steps. Of course we must recognize and have regard for the realities of contemporary international relations, and seek a rational balance between reality and hope. Our preliminary considerations are as follows:

(a) The role of the Court in the peaceful settlement of international disputes should be strengthened within the framework of its Statute and Rules, whose potentialities should be fully worked out.

(b) More States should be encouraged to accept in various forms the jurisdiction of the Court, including the compulsory jurisdiction provided in paragraph 2, Article 36, of the Statute; meanwhile, it should be kept in mind that the consent of the State concerned constitutes the basis for the jurisdiction of the Court.

(c) States should be encouraged to accept the jurisdiction of the International Court of Justice more in the form of "special agreements" or dispute settlement clauses in treaties. The practice of the Court since its founding some

40 years ago shows that the above-mentioned two forms, together with paragraph 2 of Article 36 of the Statute, constitute the basis for its jurisdiction. Nevertheless, of the 80 or so cases tried by the Court, less than 20 were based on paragraph 2, Article 36, of the Statute.

(d) The advisory jurisdiction of the International Court of Justice should be expanded. The functions of the Court should not be limited only to settling international disputes through international litigation. The advisory opinions are of great legal significance, since from the legal perspective they can serve as the legal opinions and bases for the peaceful settlement of international disputes and also have important influence on the codification and progressive development of international law.

(e) Proper use of the Ad Hoc Chamber as an institution for the trial of cases should be encouraged, because it may, on the one hand, enable the States parties to a dispute to have a greater influence and say on its composition, and on the other, simplify the procedure for the trial of cases, thus speeding up the trial.

(f) States may, individually or collectively and on agreed terms, gradually take feasible practical steps to submit international disputes more frequently to international judicial settlement.

MONGOLIA

[Original: Russian]

[3 September 1990]

1. The Mongolian People's Republic is convinced that the goals of strengthening world peace and political stability and ensuring justice and equal rights in international relations cannot be achieved without strict compliance with the norms of international law and the establishment of a proper legal order in conditions of growing global interdependence in the economic, environmental, humanitarian and other fields.

2. The Mongolian People's Republic, like many other countries, is of the opinion that the affirmation of the rule of law in international relations has now come to the forefront as one of the decisive factors in the universal safeguarding of collective security for all States and the right of peoples to peace and peaceful development.

3. In view of the foregoing, the Mongolian People's Republic attaches great significance to the declaration by the General Assembly at its forty-fourth session of the period 1990-1999 as the United Nations Decade of International Law as a timely and urgent measure. The Decade will promote the implementation of measures designed to enhance the role of international law and of the Charter of the United Nations in relations between States in the new conditions.

4. The Hague Declaration on peace and the rule of law in international affairs, adopted at the Meeting of the Ministers of Foreign Affairs of the Movement of Non-Aligned Countries, defined the priority areas for action during the Decade of International Law. The Mongolian People's Republic fully supports these priorities, as well as the basic purposes of the Decade proclaimed in General Assembly resolution 44/23.

5. The Government of the Mongolian People's Republic attaches paramount importance to the question of the full use of the machinery of the United Nations and the International Court of Justice in the settlement of international disputes. In this connection, it welcomes the constructive action taken by the International Court of Justice in recent times, which will undoubtedly enhance its authority. States are increasingly recognizing the competence of the Court and taking steps towards full recognition of its jurisdiction.

6. In the spirit of the new trend towards strengthening the role and enhancing the authority both of the United Nations and of the International Court of Justice, the Government of the Mongolian People's Republic recently adopted a decision to withdraw the reservations it had made at the time it acceded to the following international conventions concerning the procedures for the settlement of disputes by the International Court of Justice:

(a) Convention on the Privileges and Immunities of the United Nations;

(b) Convention on the Privileges and Immunities of the Specialized Agencies;

(c) Vienna Convention on the Law of Treaties;

(d) International Convention on the Elimination of All Forms of Racial Discrimination;

(e) Convention on the Elimination of All Forms of Discrimination against Women;

(f) Convention on the Political Rights of Women;

(g) Convention on the Prevention and Punishment of the Crime of Genocide;

(h) Convention on Transit Trade of Land-Locked States;

(i) International Convention Concerning the Use of Broadcasting in the Cause of Peace;

(j) Convention on the High Seas;

(k) Convention on the Physical Protection of Nuclear Material;

(l) Agreement on the Privileges and Immunities of the International Atomic Energy Agency;

(m) Convention on Early Notification of a Nuclear Accident;

(n) Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency.

7. Within the framework of the Decade of International Law, the Mongolian People's Republic proposes that the fiftieth anniversary of the adoption of the Charter of the United Nations and the Statute of the International Court of Justice should be widely observed. On the occasion of this significant anniversary, specific measures might be taken directed towards the full development of the potential of the Charter of the United Nations and the Statute of the International Court of Justice, including, for example, measures for the withdrawal of reservations made by States on acceding to various international conventions and aimed at limiting the possibilities for resort to the Court in the settlement of disputes that could arise in the application of interpretation of the provisions of the instruments in question. A major event would be the preparation of a General Act on the peaceful settlement of disputes.

8. In the view of the Government of the Mongolian People's Republic, the adoption of measures for the development and detailed elaboration of norms of international law applicable to regional conditions in the light of the particular circumstances obtaining would make a great contribution to the progressive development and codification of international law. Many States are taking specific steps in this direction. Thus, for instance, on the proposal of the Mongolian People's Republic in the Asian-African Legal Consultative Committee, consideration is being given to "Elements of a legal document on good-neighbourly and friendly relations between the States of Asia, Africa and the Pacific Ocean".

9. The Mongolian People's Republic considers that the question of the development of legal norms relating to international co-operation in the field of the application of scientific and technological advances must be given an appropriate place in the programme of action for the Decade. It is particularly urgent to devise a system of norms for the transfer and application of the achievements of scientific and technological progress to the purposes of the development of the developing countries, as an important means of reducing and eliminating the gap between developed and developing countries.

10. The Decade might make a practical contribution to the strengthening of the role of international law in the solution of global environmental problems and in the drafting of the necessary international instruments relating to the environmental protection.

11. In the view of the Mongolian People's Republic, an important goal of the Decade should be the further strengthening of the legal basis for action to complete the process of decolonization and the eradication of apartheid and racism.

12. The Decade should promote the development of norms of international law to combat terrorism, the hiring of mercenaries and illicit trafficking in drugs.

13. The Mongolian People's Republic always strives actively to participate in international efforts to combat terrorism and considers it essential for all States to accede to the existing international instruments in that field. Mongolia is a party to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the Convention on Offences and Certain Other Acts Committed On Board Aircraft, the Convention for the Suppression of Unlawful Seizure of Aircraft and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

14. The Mongolian People's Republic supports the proposal regarding the convening of a third peace conference at the end of the Decade of International Law. The Mongolian People's Republic earlier put forward a similar idea concerning the convening of a peace conference in connection with the drawing up of the programme for the Third United Nations Disarmament Decade (A/CN.10/133).

15. The Government of the Mongolian People's Republic greatly appreciates the historic significance of the Bandung Conference and it proposes that during the Decade, in 1995, the international community should observe its fortieth anniversary. The significance of the Bandung Conference lies not only in the fact that it initiated the ideas of the Movement of Non-Aligned Countries, but also in the fact that it made a great contribution to the progressive development of norms of international law aimed at protecting the interests of dependent peoples and newly liberated countries.

NICARAGUA

[Original: Spanish]

[5 September 1990]

1. The Government of Nicaragua particularly welcomes the opportunity to state its views on the objectives and programmes of the United Nations Decade of International Law.

2. The Government of Nicaragua believes that the goals and activities of the Decade must be realistic and universally supported, and that they must not duplicate what is already being done in our Organization. Accordingly, it considers that the activities of the Decade should be organized around the following themes.

A. Acceptance of and respect for the principles of international law

3. Member States should be urged to make an exceptional effort to ratify during the Decade those international conventions which they have not yet ratified and to give effect to them; and States should be urged, where relevant, to incorporate the principles and norms of international law in their national legislation.

B. Means and methods for the peaceful settlement of disputes

4. With the fundamental aim of preventing any worsening of international conflict situations, the United Nations University, the University for Peace and other similar institutions should be requested to promote regional and subregional activities aimed at identifying potential international trouble spots and to apply the most appropriate procedures and mechanisms for resolving disputes by peaceful means.

5. An international convention on the peaceful settlement of disputes among States should be signed covering, inter alia, the prevention of conflicts and practical means of resolving current conflicts.

6. The Hague Academy of International Law should be requested to promote awareness and use of the contribution made by the judgments of the International Court of Justice and other international tribunals to the prevention and settlement of such conflicts and disputes.

C. Specific programmes and measures to encourage resort to and full respect for the International Court of Justice

7. The Hague Academy of International Law should be requested to participate actively in activities under the Decade in a manner which will encourage recourse to international legal tribunals and promote compliance with their judgements.

8. In accordance with General Assembly resolution 44/23, States should be urged to promote acceptance of and respect for the principles of international law, as well as means and methods for the peaceful settlement of disputes.

D. Progressive development of international law and its codification

9. The International Law Commission should be requested to organize and conduct, in close co-operation with the United Nations Institute for Training and Research, international and national associations of jurists, university institutions and other similar associations, regional and subregional seminars designed:

(a) To promote the codification of international law in such new areas as the development of childhood and youth; copyrights; scientific and technological development; human, civil and political rights; maritime law; and the preservation and appropriate development of the environment;

(b) To study the nature of the codification process and the most appropriate procedures for adapting national legislation to embody the principles and norms of international law;

(c) To urge Governments to review and adopt the relevant recommendations emerging from such seminars.

Activities should be promoted with the aim of defining more precisely the role of the Sixth Committee of the General Assembly, the International Law Commission and the United Nations Commission on International Trade Law with regard to the progressive development of international law.

E. Financial contributions to activities under the Decade

10. A special fund should be established to finance activities under the Decade. In addition to voluntary contributions from Member States, the resources for the fund could be raised through special activities, including pledging conferences of donor States and organizations and the issuance of commemorative postage stamps. The fund could be administered by the Secretary-General of the United Nations in close co-operation with the Advisory Committee of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.

F. Dissemination, reports and assessments

11. Maximum publicity should be given to these activities throughout the Decade, with the assistance of the United Nations Department of Public Information. The highest priority should be given to the establishment and operation of national committees and other appropriate machinery for the dissemination and discussion of the results of these activities.

12. The Secretary-General should prepare biennial reports on the activities implemented and make appropriate recommendations.

13. A collective assessment should be undertaken at the mid-point of the Decade, to which end the General Assembly should prepare a balance sheet of attainments to date and adopt the decisions necessary for the attainment of the aims and objectives of the Decade.

UNITED STATES OF AMERICA

[Original: English]

[1 October 1990]

1. The United States wishes once again to express its great satisfaction that the decision to declare the Decade of International Law was taken by consensus. Because of the fundamental importance of the consent of sovereign States in the development of international law, consensus provides the surest basis for actions intended to strengthen the role of internationa law in international relations. The United States looks forward to working with other Member States to harmonize views and make the Decade one that will strengthen the foundation for a better and more peaceful world by enhancing the rule of law.

2. The Secretary-General has requested the views of the Member States as to the possibility of holding a third international peace conference or other suitable international conference at the end of the Decade. These views, as well as the view of the Member States regarding the programme of work for the Decade, will be considered by the Working Group to be established in the Sixth Committee in order to prepare generally acceptable recommendations for the Decade. In the view of the United States, the end of the Decade must and, we are confident, will be celebrated in a manner reflecting the important accomplishments of the Decade and the aspirations of the community of nations for the next century.

3. The United States hopes that the new Sixth Committee Working Group will be able to complete work on generally acceptable recommendations for the Decade during the forty-fifth session of the General Assembly. In the view of the United States, however, it is not necessary and may not be desirable to decide at this General Assembly the programme for the entire Decade or the manner of concluding the Decade in 1999, as long as the task of developing such recommendations is well under way and substantial progress is being made.

4. It is desirable that some decisions, at least regarding the programme of work, be reached early in the Decade to ensure that projects are identified and progress is being made on those projects throughout the course of the Decade. Agreement regarding some proposals may develop early in the Decade while agreement on other projects requiring additional consideration may develop later in the Decade. Such a dynamic and flexible approach to the programme of the Decade will ensure consideration of new ideas for projects that may emerge over the course of the Decade, possibly reflecting the results of various agreed upon projects as well as any dramatic changes in the world, such as those that have occurred in Europe. For similar reasons, the United States believes that any decisions regarding the manner in which the conclusion of the Decade is to be celebrated might better be made later rather than earlier in the Decade.

5. This is not to say that the United States opposes a third international peace conference as the manner in which to celebrate that event. We have not reached a decision on this matter. Certainly, the one hundredth anniversary of the 1899 Hague Peace Conference and the Fiftieth Anniversary of the signing of the Charter of the United Nations should be commemorated irrespective of the decision of the General Assembly to declare the Decade. However, as the General Assembly recognized in its resolution, an international conference on some other subject, or possibly some other international event, may be more fitting and appropriate to celebrate the conclusion of the Decade.

6. At this time, the United States has two general proposals for the programme for the Decade.

7. The General Assembly considers that one of the main purposes of the Decade is to promote acceptance of and respect for the principles of international law (resolution 44/23 of 17 November 1989, paragraph 2). In the view of the United States, acceptance of and respect for international law must begin early in the education of the youth of a country and continue through the formal educational system and beyond. It is axiomatic that if the citizens of a State are aware of

and have respect for international law, the Government of such a State is more likely to respect international law in its relations with other States.

8. Unfortunately, an apathetic, sceptical or even critical attitude towards international law is not uncommon. In some respects this is understandable. International law differs markedly from the internal law of most States both in the way it is developed and enforced. Moreover, most private individuals rarely have occasion to encounter international law directly and personally. It is a system of law that, for the most part, involves only States - not private citizens. Indeed, for most persons their principal exposure to international law may only occur as a result of criticism of such law.

9. For all these reasons, it is the view of the United States that respect for international law should be effectively promoted through the teaching of international law at the primary and secondary as well as the university level of education.

10. The primary and secondary levels of education are important in forming the values and attitudes of our youth. The earlier States begin the process of educating their nationals about the existence and benefits to mankind of international law and the more consistently States continue that process, the more likely it is that our nationals will respect such law. The General Assembly has taken action to promote the teaching of international law (resolution 44/28 of 4 December 1989), but that programme focuses upon the teaching of international law at the university level. While this is a necessary and desirable step, it is directed at a relatively small part of the general populace and comes late in the process that forms the values and attitudes of our nationals. The Government of the United States believes not only that it is possible to begin the process of educating our nationals as to the existence and benefits of international law at the primary and secondary levels of education, but that this is a worthy goal to seek to achieve during the Decade of International Law.

11. In order to encourage and facilitate such a development, the Government of the United States proposes that an effort be made to develop model curriculums and materials for the teaching of international law at those levels. This project will involve combining the skills of educators with an expertise in international law. Moreover, the development of such model curriculums and materials must be tailored not only to the specific level of education but to the circumstances, needs and requirements of the educational system within a particular culture. The United States believes that the United Nations, without the need for expenditure of significant resources, can assist Member States in the accomplishment of this worthy goal by establishing a framework within which the necessary curriculums and materials might be developed.

12. For example, the United Nations might establish a programme with target dates for the development by each geographical grouping recognized within the United Nations system of model curriculums and teaching material tailored to address in general terms the circumstances, needs and requirements shared by the States within that grouping. Each geographical grouping might then designate one or more States to take the lead in developing such curriculum and materials to be presented to the

other States in that grouping, and revised as appropriate through consultations among experts from States that belong to that grouping. Once the principal geographical groupings have developed drafts of such curriculums and materials, the United Nations might convene a conference of experts to allow the experts from the different geographical groupings to compare models, to arrive at one master model or, perhaps, simply a listing of primary elements to be included in each of the individual models.

13. The General Assembly considers that another main purpose of the Decade should be to promote means and methods for peaceful settlement of disputes between States. There already exist a number of treaties that provide a variety of mechanisms generally for the peaceful settlement of disputes, including fact-finding, conciliation, mediation, arbitration and reference to the International Court of Justice. These include, for example, the 1899 and 1907 Hague Convention for the Pacific Settlement of International Disputes, the 1928 General Act for the Pacific Settlement of International Disputes and the 1949 Revised General Act. Efforts are under way both in the United Nations and elsewhere to refine and expand these mechanisms further. In this respect, the United States wishes to commend the Secretary-General for the progress that has been made on the development of the proposed handbook on the peaceful settlement of disputes between States being prepared by the Secretariat (resolutions 39/79 and 39/80 of 13 December 1984). We look forward to the completion of the handbook, which we believe not only will assist the ongoing efforts to refine dispute settlement mechanisms, but itself will be an early and important contribution to the Decade (see resolution 44/31 of 4 December 1989).

14. In the view of the United States, practical results in this important area would be furthered significantly by developing mechanisms that are tailored to particular categories of disputes and specifically include mechanisms for dispute prevention or avoidance as well as dispute settlement. By dispute prevention, the United States has in mind the resolution of differences that could be described as not having evolved into full-blown disputes. It may be that such mechanisms, to be effective, must be tailored to the specific relationship between two States or among the States of a particular geographic region. One example of such mechanisms is to be found in the Free Trade Agreement between the United States and Canada.

15. The Free Trade Agreement between the United States and Canada generally covers the avoidance or settlement of all disputes between the parties regarding interpretation or application of the Agreement. It establishes a joint Commission with wide-ranging responsibilities that include supervising the implementation of the Agreement. Five member bi-national panels or experts serve the Commission for different categories of trade disputes. With regard to certain categories of disputes under the Agreement, the parties are obligated to submit to binding arbitration while in regard to other categories they can only be required to submit to arbitration with their prior consent (chap. 18). The Agreement also provides special bi-national procedures for reviewing administrative findings in anti-dumping and countervailing duties cases (chap. 19).

16. The Agreement further provides that the Commission, in the exercise of its supervision of the implementation and elaboration of the Agreement, is authorized to establish and delegate responsibilities to ad hoc or standing committees or working groups, and to seek the advice of non-governmental individuals or groups. This mechanism allows the Commission to identify strong and significant feelings that the Agreement is not operating properly or fairly and which, if left unaddressed, would undermine the efficacy of the Agreement. The Commission may also appoint a mediator acceptable to the parties, in an effort to reach a mutually satisfactory resolution of a dispute. The mechanism complements other dispute resolution mechanisms and provides another important opportunity to prevent or avoid disputes.

17. The United States suggests that an examination of mechanisms such as those adopted by the United States and Canada with regard to trade or similar mechanisms that may have been adopted by other States or groups of States with regard to trade could lead to the development of one or more models of dispute settlement that are susceptible of application by other States or groups of States to their trade relations, particularly with respect to dispute prevention techniques.

18. The United States would propose a staged approach to the development of such a proposal during the Decade. This approach might begin with the identification and detailed examination of the mechanisms described above, particularly with regard to dispute prevention. It would be useful to consider in such an examination the problems that have been identified during the ongoing Uruguay Round of Trade Negotiations with regard to the dispute resolution mechanisms of the General Agreement on Tariffs and Trade and proposals to improve those mechanisms. Once the elements of such mechanisms have been explored, including the possible advantages and disadvantages and possible improvements, it would be useful to examine the possible application of these mechanisms to other States or geographical groupings and to other categories of disputes.

19. The United States welcomes the comments and suggestions of other States regarding these proposals. We look forward to a constructive discussion generally of our proposals and the proposals of other States for the programme of work for the Decade of International Law in the Working Group to be established in the Sixth Committee.

ANNEX II

REPLIES RECEIVED FROM INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS AND NON-GOVERNMENTAL ORGANIZATIONS

INTERNATIONAL INSTITUTE OF HUMANITARIAN LAW

[Original: English]

[10 September 1990]

1. The International Institute of Humanitarian Law has been actively engaged in developing various activities in the field of international law and will continue to do so during the United Nations Decade of International Law. Activities of the Institute contribute to the achievement of the purposes of that Decade.

2. In the field of teaching and dissemination, among other activities, the courses on international humanitarian law, on refugee law and the law of human rights should be mentioned. They are carried out in close co-operation with other organizations concerned, in particular the International Committee of the Red Cross, the Office of the United Nations High Commissioner for Refugees, the United Nations Centre for Human Rights and the International Organization for Migration.

3. The Institute has been involved in dialogue with all those concerned at the regional level and dealing with current problems of international humanitarian law and refugee law. A series of annual seminars in Eastern European countries, with the participation of other European countries, and meetings of experts from Arab and Asian countries, were some of the events promoted by the Institute.

4. Every year in September the Institute organizes a round table, selecting some current problems of international humanitarian law, refugee law and human rights, and problems concerning specifically the Red Cross and Red Crescent Movement for discussion.

5. Another field of action of the Institute was its efforts at promoting the development of law in areas in which this development is felt to be necessary. At present there is a series of meetings of experts on the problems of international humanitarian law in armed conflicts at sea.

6. Many of the activities of the Institute are directed towards the problems of interpretation, study, application and further development of international humanitarian law, refugee law, relief law and similar branches of law.

7. The Institute has established relations and co-operation with many United Nations bodies. During the International Year of Peace in 1986 a Congress on "Peace and Humanitarian Actions" was organized. The Institute was at that time designated a "Peace Messenger" by the Secretary-General.

8. This short overview of the Institute's activities shows that it has been engaged in promoting, disseminating and encouraging the teaching, study and application of the branches of international law mentioned.

9. The Institute supports fully the programme of the United Nations Decade of International Law and will continue to contribute, through its various activities, to the purposes of the Decade.